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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,001	02/08/2002	Albert Charles McNamara	P-1090099(REISSUE)	1978
7590 04/09/2004 ALBERT CHARLES MCNAMARA 302 SPENCER LAND SAN ANTONIO, TX 78201			EXAMINER SIMONE, TIMOTHY F	
			ART UNIT 1761	PAPER NUMBER
DATE MAILED: 04/09/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/072,001	MCNAMARA, ALBERT CHARLES	
	Examiner	Art Unit	
	Timothy F. Simone	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10, 11, 13, 20, 21 and 25-43 is/are rejected.
- 7) ☒ Claim(s) 1, 6-9, 12, 14-19 and 22-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Reissue Application

The Final rejection, mailed October 16, 2003 is hereby withdrawn. Rejections and objections based on new matter follow.

Drawings

The proposed drawing changes filed, February 8, 2002, under 37 CFR 1.173(b)(3) have been approved. New drawings in compliance with 37 CFR 1.84 including the approved changes must be filed in accordance with 37 CFR 1.173(b)(3).

Ownership

This application is objected to under 37 CFR 1.172(a) as the assignee has not established its ownership interest in the patent for which reissue is being requested. An assignee must establish its ownership interest in order to support the consent to a reissue application required by 37 CFR 1.172(a). The assignee's ownership interest is established by:

(a) filing in the reissue application evidence of a chain of title from the original owner to the assignee, or

(b) specifying in the record of the reissue application where such evidence is recorded in the Office (e.g., reel and frame number, etc.).

In this particular application, the reel and frame number are incorrect on the Ownership/Consent Form. It should be "Reel 011064, Frame 0058", not the recited "Reel 2108, Frame 0053".

The submission with respect to (a) and (b) to establish ownership must be signed by a party authorized to act on behalf of the assignee. See MPEP § 1410.01.

An appropriate paper satisfying the requirements of 37 CFR 3.73 must be submitted in reply to this Office action.

Specification

The amendment filed February 8, 2002 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Page 4, lines 14-16 "No structure is shown in this application.....to the end of each tab 42.", line 17 "caused by the invented baffle plate", line 18 "hot gases"; Page 5, lines 10-11 "No limit to the number of tabs, holes, or tab/hole pairs in a row is shown.", lines 18-20 "As shown....for the purpose of increasing turbulence."; Page 6, line 1 "flowing heated gas". Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

Claims 1, 6-9, 12, 14-19 and 22-24 are objected to because of the following informalities: For example, claim 1 appears to be missing some text and does not end in period. Therefore, the amendment, filed July 28, 2003, fails to comply with 37 CFR 1.173. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 10, 11, 13, 20, 21 and 25-43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The following subject matter is deemed new matter: Claim 10, "the crease of at least one tab is positioned directly downstream with respect to the flow of heating fluid, of the web between two tabs which are adjacent and upstream of the at least one tab"; Claim 11, "crease of each tab is upstream...of a main body of the each tab"; Claim 13, "the crease of a least one tab...upstream of a main body of at least one tab..."; Claim 20, "a portion of the

baffle plate has a greater number of tabs than an equally sized portion of the baffle plate which is upstream, with respect to the flow of heating fluid, of the portion of the baffle plate"; Claim 21, "the number of tabs per unit length increases along the baffle plate in a downstream direction with respect to the flow of heating fluid"; Claim 25, "the crease of a least one tab being directly downstream... of the web between two other tabs which are adjacent and upstream..."; Claim 26, "...the baffle plate being positioned with the heat transfer conduit and shaped so that the tabs are capable of deflecting the heating fluid so that the heating fluid is capable of flowing through the holes, between the tabs, adjacent to the webs and between the tabs and the heat transfer conduit so that the baffle plate, tabs, and holes are capable of collectively causing increased turbulence of the heating fluid passing through the heat transfer conduit, the increased turbulence improving heat transfer from the heating fluid within the heat transfer conduit to the shortening within the vat of the deep fat fryer system as compared to a similar heat exchanger for a deep fryer system which does not utilize a baffle plate; Claim 27, "...a plurality of tabs are positioned directly downstream ... of the web between two tabs which are adjacent and downstream of the plurality of tabs"; Claim 29, "...at least six rows of tab/hole pairs ...at least four tab/hole pairs and a least three webs...and the tab/hole pairs are arranged on the first surface of the baffle plate symmetrically about the center line of the baffle plate...the baffle plate is positioned and shaped so that the tabs...capable of flowing through the holes, between the tabs, adjacent the webs and between the tabs...causing increased turbulence...the increased turbulence improving heat transfer from the heating fluid...; Claim 30, "at least of portion of the webs are

positioned directly upstream... of a tab located in an immediately downstream row of tabs..."; Claim 32, "the tabs are located, and shaped... causing increased turbulence of the heating fluid.... to improve heat transfer from the heating fluid..."; Claim 33, "each tab extends outwardly at an acute angle... deflecting the heating fluid through its corresponding hole... baffle plate"; Claim 37, " ... and wherein the tabs are positioned.... heating fluid is flowable through the holes, between the tabs and between the tabs.... causing increased turbulence... to improve heat transfer... for a deep fryer system...."; Claim 38, "the crease of a plurality of tabs.... is directly downstream ... of the creases of the tabs in the rows of tabs... directly downstream"; Claim 41, "at least six rows of tabs on the baffle plate..."; Claim 42, "the baffle plate... heating fluid is flowable through the holes, between the tabs, adjacent to the webs and between the tabs and the heat transfer conduit... causing increased turbulence... to improve heat transfer..."; Claim 43, "a burner generates products of combustion which flow through said tube from an entrance to and exit...".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy F. Simone whose telephone number is 571-272-1407. The examiner can normally be reached on weekdays between 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 521-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Timothy F. Simone
Primary Examiner
Art Unit 1761